

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RALPH WESTERFIELD,

Plaintiff,

v.

No. CIV-13-0873 LAM

**CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,**

Defendant.

**ORDER GRANTING JOINT STIPULATION FOR FEES AND EXPENSES
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on the parties' *Joint Stipulation for EAJA Fees and Expenses* (Doc. 33), wherein the parties state that they stipulate to an award of \$7,200.00 pursuant to the Equal Access to Justice Act for attorney fees and costs in this case. The Court, having considered the joint motion, the record in this case, and the relevant law, and being otherwise fully advised **FINDS** that the joint motion is well-taken and will be **GRANTED**.

WHEREFORE, IT IS HEREBY ORDERED that the parties' *Joint Stipulation for EAJA Fees and Expenses* (Doc. 33) is **GRANTED**, and Plaintiff is authorized to receive **\$7,200.00** for payment to Plaintiff's attorney for services before this Court, as permitted by the Equal Access to Justice Act, 28 U.S.C. § 2412, and in accordance with *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

IT IS FURTHER ORDERED that, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's attorney shall refund the smaller award to Plaintiff pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 596 n.4 (2010) (explaining

that, if a claimant's counsel is ultimately granted attorney fees under § 406(b) out of the claimant's benefit award, the claimant's attorney must refund to the claimant the amount of the smaller fee).

IT IS SO ORDERED.

Lourdes A. Martinez
LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE
Presiding by Consent